

## **Assembly Bill No. 2897**

### **CHAPTER 171**

An act to add Sections 7121.6, 7121.65, 7121.7, and 7121.8 to the Business and Professions Code, relating to contractors.

[Approved by Governor August 28, 2006. Filed with  
Secretary of State August 28, 2006.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2897, Daucher. Contractors: revoked licenses.

Under existing law, the Contractors' State License Law, the Contractors' State License Board licenses and regulates contractors, and authorizes the board to revoke a license for specified reasons.

This bill would prohibit an individual who was a member, officer, director, owner, or partner of a license that was revoked and who meets specified criteria from performing acts regulated by the law on behalf of a licensee, except as a bona fide nonsupervising employee, as defined. The bill would require those individuals to notify a prospective employer of the license revocation prior to becoming employed by an entity subject to licensure by the board. The bill would also prohibit a licensee from knowingly hiring those individuals, except as bona fide nonsupervising employees. Because a violation of this bill's provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7121.6 is added to the Business and Professions Code, to read:

7121.6. (a) An individual who meets all of the following criteria shall not perform any act regulated under this chapter for or on behalf of a licensee, other than as a bona fide nonsupervising employee:

- (1) The individual was a member, officer, director, owner, or partner of a license that was revoked.
- (2) The individual had knowledge of or participated in any act or omission for which the license was revoked.
- (3) The individual is not eligible for reinstatement for licensure under Section 7102.

(b) An individual who meets all of the following criteria shall not perform any act regulated under this chapter for or on behalf of a licensee, other than as a bona fide nonsupervising employee:

(1) The individual furnished the qualifications for licensure, as set forth under Section 7068, and that license was revoked.

(2) The individual served in the capacity of the qualifying individual during the commission or omission of any of the acts that resulted in the revocation of the license, whether or not he or she had knowledge of or participated in those acts.

(3) The individual is not eligible for reinstatement for licensure under Section 7102.

(c) A violation of this section is a misdemeanor punishable by a fine of not less than four thousand five hundred dollars (\$4,500), by imprisonment in a county jail for not less than 90 days nor more than one year, or by both the fine and imprisonment. The penalty provided by this subdivision is cumulative to the penalties available under other laws of this state.

(d) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section shall be found or an information or complaint filed within four years from the performance of any act that is prohibited under this section.

SEC. 2. Section 7121.65 is added to the Business and Professions Code, to read:

7121.65. Prior to becoming employed in any capacity by an entity that is subject to licensure under this chapter, an individual who is described in subdivision (a) or (b) of Section 7121.6 shall provide the prospective employer with written notice of the license revocation.

SEC. 3. Section 7121.7 is added to the Business and Professions Code, to read:

7121.7. (a) A qualifying individual, officer, partner, or other person named on a license shall not knowingly employ an individual who is described in subdivision (a) or (b) of Section 7121.6, except as a bona fide nonsupervising employee.

(b) A violation of this section is a misdemeanor punishable by a fine of not less than four thousand five hundred dollars (\$4,500), by imprisonment in a county jail for not less than 30 days nor more than one year, or by both the fine and imprisonment.

(c) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section shall be found or an information or complaint filed within four years from the performance of any act that is prohibited under this section.

SEC. 4. Section 7121.8 is added to the Business and Professions Code, to read:

7121.8. For purposes of this article, “bona fide nonsupervising employee” means a person who is exempt from the provisions of this chapter under Section 7053, and who does not otherwise meet the test of an independent contractor, as set forth under Section 2750.5 of the Labor Code.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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